

Alex L. Fugazzi (Nevada Bar No. 9022)  
Michael Paretto (Nevada Bar No. 13926)  
SNELL & WILMER L.L.P.  
3883 Howard Hughes Parkway, Suite 1100  
Las Vegas, Nevada 89169  
Telephone: 702.784.5200  
Facsimile: 702.784.5252  
[afugazzi@swlaw.com](mailto:afugazzi@swlaw.com)  
[mparetto@swlaw.com](mailto:mparetto@swlaw.com)

*Attorneys for Defendant  
Shannon Pierce*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

LATONIA SMITH,

Plaintiff(s),

-VS-

CAESARS ENTERTAINMENT  
CORPORATION, a Delaware corporation;  
PHWL, LLC d/b/a PLANET  
HOLLYWOOD RESORT AND CASINO, a  
Nevada limited liability company;  
SHANNON PIERCE; ETHAN THOMAS,

Defendant(s).

Case No.: 2:19-cv-00856-GMN-DJA

**DEFENDANT SHANNON PIERCE'S  
RESPONSE TO PLAINTIFF'S  
MOTION TO STRIKE IRRELEVANT  
ARGUMENTS AND EVIDENCE  
AND/OR SEAL THEM**

Defendant Shannon Pierce ("Ms. Pierce"), by and through her counsel of record, Snell & Wilmer L.L.P., hereby submits this Response to Plaintiff Latonia Smith's ("Ms. Smith") "Motion to Strike Irrelevant Arguments and Evidence and/or Seal Them" [ECF No. 82].<sup>1</sup> This Response is based upon the following memorandum of points and authorities, the pleadings and papers on file in this action, and any oral arguments the Court may entertain.

<sup>1</sup> Ms. Smith filed an Omnibus Reply in Support of her Motion for Sanction [ECF No. 81] and Motion to Strike Irrelevant Arguments and Evidence and/or Seal Them [ECF No. 82]. The substance of the filings is identical. While Ms. Pierce wholly disagrees with Ms. Smith's claims and arguments regarding her request for sanctions, those arguments relate to Ms. Smith's Reply in Support of her Motion for Sanctions, and as such, Ms. Pierce refrains from addressing them here.

**MEMORANDUM OF POINTS AND AUTHORITIES****I. INTRODUCTION AND BACKGROUND**

On August 23, 2019, Ms. Pierce filed a motion to strike Ms. Smith's procedurally and substantively infirm Surreply to Ms. Pierce's Motions to Dismiss. *See* ECF No. 67. Since then, Ms. Smith has abused this procedural remedy and has filed a motion to strike nearly all of Defendants' subsequent briefs. *See* ECF No. 78 (moving to strike Ms. Pierce's Response to Ms. Smith's Motion for Leave to file an amended complaint); ECF No. 80 (moving to strike Caesars Entertainment Corporation, PHWLTV, LLC, and Ethan Thomas's Response to Ms. Smith's Motion for Leave to file an amended complaint); ECF No. 82 (moving to strike Ms. Pierce's Response to Ms. Smith's Motion for Sanctions); ECF No. 50 in related Case No. 2:19-cv-00824-GMN-EJY (moving to strike Fennemore Craig's Reply in Support of its Emergency Motion to Quash). Ms. Smith's Motions to Strike are abusive, improper, and meritless.

In the instant Motion, Ms. Smith contends that "Defense's baseless assertion that the Plaintiff filed her medical records publicly herself is equally vexatious and malicious, and Plaintiff requests that the court strike his baseless assertion and any references to this assertion from the record. The Court may grant a motion to strike where it injects irrelevant or immaterial evidence/arguments into any pleading." Pl.'s Mot., ECF No. 82, at 1:26-2:2. Tellingly, Ms. Smith does not cite a single case in her brief, let alone provide any authority that would warrant striking Ms. Pierce's argument.

As discussed in detail below, Ms. Pierce's arguments and evidence are neither irrelevant nor immaterial. Rather, Ms. Pierce responded to Ms. Smith's Motion for Sanctions by demonstrating Ms. Smith's claims are demonstrably false. The fact that Ms. Smith herself may have placed her medical records in the public domain is directly relevant to Ms. Smith's request for sanctions against Ms. Pierce. And even if Ms. Smith did not publicly file her own medical records, she consented to them being publicly filed by authenticating them as an exhibit. As such, Ms. Smith's request to strike Ms. Pierce's "evidence/arguments" in her Response to the Motion for Sanctions is baseless, and the Court should deny Ms. Smith's Motion to Strike in its entirety.

## II. ARGUMENT

Motions to strike are disfavored in litigation and should be granted sparingly. *Mag Instrument, v. Inc. v. JS Prod.'s Inc.*, 595 F.Supp.2d 1102, 1106 (C.D. Cal. 2008) (analyzing motion to strike affirmative defenses). While motions to strike should be used sparingly, “[t]hat does not mean that such motions are never granted, however.” *Canadian St. Regis Band of Mohawk Indians ex rel. Francis v. New York*, 278 F. Supp. 2d 313 (N.D. N.Y. 2003). For example, the Court should grant a Motion to Strike where a party improperly files a surreply without seeking leave of Court, as Ms. Smith did previously in this action. *See Johnson v. Nevada*, 2:14-cv-01425-GMN-PAL, 2016 WL 6156066, at \*1 (D. Nev. Oct. 20, 2016) (holding that Plaintiff did not seek leave of the court to file his surreply, and therefore, the surreply was improperly filed and should be stricken from the record.); *see also* ECF No. 67.

In her Motion for Sanctions [ECF No. 58], Ms. Smith requests that the Court impose an undisclosed “sanction” upon Ms. Pierce for attaching to her Request for Judicial Notice a redacted document that sat publicly filed by or on behalf of Ms. Smith’s mother for months and in unredacted form in the Eighth Judicial District Court. Here, Ms. Smith requests the Court strike Ms. Pierce’s assertion that Ms. Smith filed her medical records publicly herself since she believes this contention is irrelevant or immaterial.<sup>2</sup> Pl.’s Mot., ECF No. 82, at 1:26-2:2. But Ms. Pierce’s arguments and evidence are neither irrelevant nor immaterial.

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<sup>2</sup> Ms. Smith also claims that “Fugazzi then filed the records again as a part of his frivolous emergency motion in an attempt to support his new, desperate, and erroneous argument that Ms. Smith is crazy and should not be allowed to depose his clients. His actions clearly show a blatant disregard for the rules, a lack of ethical behavior, attorney misconduct, and the fact that he is deeply (and unhealthily) emotionally involved and unhinged in this action.” Ms. Smith is referring to Fennemore Craig’s Emergency Motion to Quash, or in the alternative, Motion for a Protective Order, ECF No. 37 in related Case No. 2:19-cv-00824-GMN-EJY, despite her claims that the cases “do not involve common issues of fact and law.” *See* ECF No. 54 at 2:10 (opposing Ms. Pierce’s request to consolidate Ms. Smith’s lawsuits against Ms. Pierce and Ms. Pierce’s law firm, Fennemore Craig). Ms. Smith’s argument is, again, demonstrably untrue. References to Ms. Smith’s medical records were redacted, Ms. Smith’s medical records were submitted under seal, and Fennemore Craig filed a motion to seal the records. *See* ECF No. 38 in related Case No. 2:19-cv-00824-GMN-EJY. As explained in the Emergency Motion to Quash, or in the alternative, Motion for a Protective Order, Fennemore did not reference Ms. Smith’s medical records to “inappropriately harass Ms. Smith,” but rather, to demonstrate Fennemore and its employees reasonably fear for their safety. *See generally*, ECF No. 37 in related Case No. 2:19-cv-00824-GMN-EJY.

The medical records at issue were initially publicly filed by or on behalf of Ms. Smith's mother in her state court litigation against Ms. Pierce's clients, Caesars Entertainment Corporation and PHWLTV, LLC in Eighth Judicial District Court Case No. A-18-784032-C (the "Peruzar Litigation"). As explained in Ms. Pierce's Response to the Motion for Sanctions [ECF No. 70], Mr. Trout, Mrs. Peruzar's former counsel, testified that he was told that it was actually Ms. Smith who drafted the two Motions for Summary Judgment on behalf of her mother that attached the medical records as exhibits. ECF No. 70 at 3:4-10 (citing Mr. Trout's testimony that Ms. Smith "stated that she had aided in preparing a motion for summary judgment in this [the Peruzar] case," and that "I believe that in essence [Ms. Smith] drafted the motion for summary judgment."). In response to Mr. Trout's testimony, Ms. Smith now adds him and an entire religion to the laundry list of individuals that have allegedly behaved inappropriately.<sup>3</sup> See ECF No. 82 at 2:4-8 (referring to Mr. Trout as a "lying, unethical being" who was "actively engaged in attorney misconduct (due to Mormon relationships which reigned superior.>"). Despite being under oath in his deposition, Ms. Smith claims Mr. Trout's statements are "outright falsities." ECF No. 82 at 2:6.

What's more, in a January 29, 2019 declaration submitted in the Peruzar Litigation, Ms. Smith declared under penalty of perjury that: "I affirm that Exhibit 2 attached in this motion [the January 30 Motion for Summary Judgment] is a true, accurate, and complete copy of the medical record from my 11/17/17 admission to the hospital." Declaration of Latonia Smith, attached as **Exhibit A** at ¶ 11. So even assuming Ms. Smith's argument that she did not draft the Motion for Summary Judgment (despite her mother's former counsel's testimony) is true, Ms. Smith expressly consented to and ratified her medical records being publicly filed by acknowledging them and authenticating them as an exhibit to a motion publicly filed by or on behalf of her mother.

Finally, Ms. Smith requests, in the alternative, that Ms. Pierce's Response to the Motion for Sanctions [ECF No. 70] should be "sealed to further protect Ms. Smith who has been continually maligned by those working with defendants spewing malicious accusations that are speculative and not based in any fact or reality." ECF No. 82, at 2:17-20. Ms. Smith presents no basis, legal or

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<sup>3</sup> See ECF No. 46 in related Case No. 2:19-cv-00824-GMN-EJY at 3:11-4:13 (detailing all of the individuals Ms. Smith believes are conspiring against her or have some nefarious intent).

1 otherwise, to seal Ms. Pierce's Response to the Motion for Sanctions. Indeed, so long as Ms.  
2 Smith's Motion for Sanctions remains in the public record, so too should Ms. Pierce's Response.

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4 **III. CONCLUSION**

5 For each of these reasons, Ms. Smith's Motion to Strike fails. Ms. Smith is abusing the legal  
6 system by filing meritless Motions to Strike any argument she disagrees with. The Court should  
7 not endorse Ms. Smith's behavior and should deny her Motion in its entirety.  
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9 Dated: September 9, 2019.

SNELL & WILMER L.L.P.

11 By: /s/ Michael Paretti

12 Alex L. Fugazzi (NV Bar No. 9022)  
13 Michael Paretti (NV Bar No. 13926)  
14 3883 Howard Hughes Parkway, Suite 1100  
15 Las Vegas, Nevada 89169  
16 Attorneys for Defendant Shannon Pierce  
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**CERTIFICATE OF SERVICE**

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be served a true and correct copy of the foregoing **DEFENDANT SHANNON PIERCE'S RESPONSE TO PLAINTIFF'S MOTION TO STRIKE IRRELEVANT ARGUMENTS AND EVIDENCE AND/OR SEAL THEM** by method indicated below:

☐ **BY FAX:** by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m. pursuant to EDCR Rule 7.26(a). A printed transmission record is attached to the file copy of this document(s).

☒ **BY U.S. MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada addressed as set forth below.

Latonia Smith (*in Pro Per*)  
9748 Canyon Landing Ave.  
Las Vegas, NV 89166  
Tel: (702) 521-3522

☐ **BY OVERNIGHT MAIL:** by causing document(s) to be picked up by an overnight delivery service company for delivery to the addressee(s) on the next business day.

☐ **BY PERSONAL DELIVERY:** by causing personal delivery by \_\_\_\_\_, a messenger service with which this firm maintains an account, of the document(s) listed above to the person(s) at the address(es) set forth below.


☒ **BY ELECTRONIC SUBMISSION:** submitted to the above-entitled Court for electronic filing and service upon the Court's Service List for the above-referenced case.

☐ **BY EMAIL:** by emailing a PDF of the document listed above to the email addresses of the individual(s) listed below.

Riley Clayton, Esq.  
HALL JAFFE & CLAYTON, LLP  
7425 Peak Drive  
Las Vegas, NV 89128  
Telephone: 702.316.4111  
Facsimile: 702.316.4114  
[rclayton@lawhjc.com](mailto:rclayton@lawhjc.com)

*Attorneys for Defendant Caesars Entertainment Corporation, PHWLV, LLC dba Planet Hollywood Resort & Casino, and Ethan Thomas*

DATED this 9th day of September, 2019.



An employee of SNELL & WILMER L.L.P.

**INDEX OF EXHIBITS**

<b>Exhibit No.</b>	<b>Description</b>	<b>No. of Pages</b>
A	Declaration of Latonia Smith	2

4849-2176-8611

**Snell & Wilmer**

LLP  
LAW OFFICES  
3883 Howard Hughes Parkway, Suite 1100  
Las Vegas, Nevada 89169  
702.784.5200